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110TH CONGRESS
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H. R. 2798

[Report No. 110-241]

To reauthorize the programs of the Overseas Private Investment Corporation,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2007

Mr. SHERMAN introduced the following bill; which was referred to the
Committee on Foreign Affairs

JULY 19, 2007

Additional sponsors: Mr. LANTOS, Ms. ROS-LEHTINEN, and Mr. PAYNE

JULY 19, 2007

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 20, 2007]

A BILL

To reauthorize the programs of the Overseas Private
Investment Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Overseas Private Invest-*
3 *ment Corporation Reauthorization Act of 2007”.*

4 **SEC. 2. FINDINGS.**

5 *The Congress finds the following:*

6 (1) *Since its founding in 1971, the Overseas Pri-*
7 *ivate Investment Corporation (in this section referred*
8 *to as “OPIC”) has helped to mobilize and facilitate*
9 *private capital by United States investors in devel-*
10 *oping and emerging market countries in support of*
11 *United States foreign policy and development goals.*

12 (2) *OPIC assistance should not, in any way,*
13 *support projects in countries that reject their obliga-*
14 *tions to support international peace, security, and*
15 *basic human rights.*

16 (3) *OPIC assistance should not be provided to*
17 *those who support enemies of the United States.*

18 (4) *OPIC assistance is a privilege and should be*
19 *granted to persons that, along with their affiliated*
20 *companies, demonstrate responsible and sustainable*
21 *business practices, particularly with regard to the en-*
22 *vironment, international worker rights, and efforts*
23 *against genocide and nuclear proliferation. Denial of*
24 *OPIC assistance is not a penalty or sanction.*

25 (5) *Over OPIC’s 35-year history, OPIC has sup-*
26 *ported \$177,000,000,000 in operating investments in*

1 *more than 150 developing countries, helping to create*
2 *more than 800,000 jobs and some \$13,000,000,000 in*
3 *host-government revenues.*

4 (6) *OPIC projects have generated*
5 *\$71,000,000,000 in United States exports and sup-*
6 *ported more than 271,000 United States jobs.*

7 (7) *Projects assisted by OPIC in fiscal year 2006*
8 *are projected to generate \$1,000,000,000 in United*
9 *States exports, support more than 2,700 United*
10 *States jobs, and have a positive impact on the United*
11 *States balance of payments.*

12 (8) *In fiscal year 2006, 87 percent of all OPIC-*
13 *supported projects supported small-and-medium-sized*
14 *businesses in the United States.*

15 (9) *In an era of limited Federal budgetary re-*
16 *sources, OPIC has consistently demonstrated an abil-*
17 *ity to operate on a self-sustaining basis to support*
18 *United States companies, all at a net cost of zero to*
19 *the United States taxpayer.*

20 (10) *OPIC has reserves totaling approximately*
21 *\$5,300,000,000 and will make an estimated net budg-*
22 *et contribution to the international affairs account of*
23 *\$159,000,000 in fiscal year 2008.*

1 **SEC. 3. REAUTHORIZATION OF OPIC PROGRAMS.**

2 *Section 235(a)(2) of the Foreign Assistance Act of 1961*
 3 *(22 U.S.C. 2195(a)(2)) is amended by striking “September*
 4 *30, 2007” and inserting “September 30, 2011”.*

5 **SEC. 4. PREFERENTIAL CONSIDERATION OF CERTAIN IN-**
 6 **VESTMENT PROJECTS.**

7 *Section 231(f) of the Foreign Assistance Act of 1961*
 8 *(22 U.S.C. 2191(f)) is amended to read as follows:*

9 *“(f) to give preferential consideration to invest-*
 10 *ment projects in less developed countries the govern-*
 11 *ments of which are receptive to private enterprise, do-*
 12 *mestic and foreign, and to projects in countries the*
 13 *governments of which are willing and able to main-*
 14 *tain conditions that enable private enterprise to make*
 15 *its full contribution to the development process;”.*

16 **SEC. 5. REQUIREMENTS REGARDING INTERNATIONAL**
 17 **WORKER RIGHTS.**

18 *(a) COUNTRY REQUIREMENTS.—Subsection (a) of sec-*
 19 *tion 231A of the Foreign Assistance Act of 1961 (22 U.S.C.*
 20 *2191a(a)) is amended—*

21 *(1) by amending the subsection heading to read*
 22 *as follows: “INTERNATIONAL WORKER RIGHTS”;*

23 *(2) in paragraph (4), by striking “(4) In” and*
 24 *inserting “(5) ADDITIONAL DETERMINATION.—In” ;*
 25 *and*

1 (3) *by striking paragraphs (1) through (3) and*
2 *inserting the following:*

3 “(1) *LIMITATION ON OPIC ACTIVITIES.—(A) The*
4 *Corporation may insure, reinsure, guarantee, or fi-*
5 *nance a project only if the country in which the*
6 *project is to be undertaken has made or is making*
7 *significant progress towards the recognition, adop-*
8 *tion, and implementation of laws that substantially*
9 *provide international worker rights, including in any*
10 *designated zone, or special administrative region or*
11 *area, in that country.*

12 “(B) *The Corporation shall also include the fol-*
13 *lowing language, in substantially the following form,*
14 *in all contracts which the Corporation enters into*
15 *with eligible investors to provide financial support*
16 *under this title:*

17 “*‘The investor agrees not to take any actions to*
18 *obstruct or prevent employees of the foreign enterprise*
19 *from exercising their international worker rights (as*
20 *defined in section 238(h) of the Foreign Assistance*
21 *Act of 1961), and agrees to adhere to the obligations*
22 *regarding those international worker rights.’*

23 “(2) *PREFERENCE TO CERTAIN COUNTRIES.—To*
24 *the degree possible and consistent with its develop-*
25 *ment objectives, the Corporation shall give pref-*

1 *erential consideration to projects in countries that*
 2 *have adopted, maintain, and enforce laws that sub-*
 3 *stantially provide international worker rights.*

4 “(3) *USE OF ANNUAL REPORTS ON INTER-*
 5 *NATIONAL WORKER RIGHTS.—The Corporation shall,*
 6 *in carrying out paragraph (1)(A), use, among other*
 7 *sources, the reports submitted to the Congress pursu-*
 8 *ant to section 504 of the Trade Act of 1974. Such*
 9 *other sources include the observations, reports, and*
 10 *recommendations of the International Labor Organi-*
 11 *zation, and other relevant organizations.*

12 “(4) *INAPPLICABILITY TO HUMANITARIAN ACTIVI-*
 13 *TIES.—Paragraph (1) shall not prohibit the Corpora-*
 14 *tion from providing any insurance, reinsurance,*
 15 *guaranty, financing, or other assistance for the provi-*
 16 *sion of humanitarian assistance in a country.”.*

17 (b) *BOARD OF DIRECTORS.—Section 233(b) of the For-*
 18 *eign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended*
 19 *by adding at the end the following: “The selection of the*
 20 *small business, organized labor, and cooperative directors*
 21 *should be made, respectively, in consultation with relevant*
 22 *representative organizations.”.*

23 (c) *DEFINITIONS.—Section 238 of the Foreign Assist-*
 24 *ance Act of 1961 (22 U.S.C. 2198) is amended—*

1 (1) in subsection (f), by striking “and” after the
2 semicolon;

3 (2) in subsection (g), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(h) the term ‘international worker rights’ means—

7 “(1) internationally recognized worker rights, as
8 defined in section 507(4) of the Trade Act of 1974 (19
9 U.S.C. 2467(4)); and

10 “(2) the elimination of discrimination with re-
11 spect to employment and occupation.”.

12 (d) **GENERAL PROVISIONS AND POWERS.**—Section 239
13 of the Foreign Assistance Act of 1961 (22 U.S.C. 2199) is
14 amended—

15 (1) in subsection (h), by adding at the end the
16 following: “In addition, the Corporation should con-
17 sult with relevant stakeholders in developing such cri-
18 teria.”; and

19 (2) in subsection (i), in the first sentence, by in-
20 serting “, including international worker rights,”
21 after “fundamental freedoms”.

22 **SEC. 6. ENVIRONMENTAL ASSESSMENTS.**

23 Section 231A(b) of the Foreign Assistance Act of 1961
24 (22 U.S.C. 2191a(b)) is amended to read as follows:

1 “(b) *ENVIRONMENTAL IMPACT.*—*The Board of Direc-*
 2 *tors of the Corporation shall not vote in favor of any action*
 3 *proposed to be taken by the Corporation that is likely to*
 4 *have significant adverse environmental impacts, unless for*
 5 *at least 60 days before the date of the vote—*

6 “(1) *an environmental impact assessment, or*
 7 *initial environmental audit, analyzing the environ-*
 8 *mental impacts of the proposed action and of alter-*
 9 *natives to the proposed action has been completed by*
 10 *the project applicant and made available to the Board*
 11 *of Directors; and*

12 “(2) *such assessment or audit has been made*
 13 *available to the public of the United States, locally af-*
 14 *ected groups in the host country, and host country*
 15 *nongovernmental organizations.”.*

16 **SEC. 7. COMMUNITY SUPPORT.**

17 *Section 237 of the Foreign Assistance Act of 1961 (22*
 18 *U.S.C. 2197) is amended by adding at the end the following:*

19 “(p) *COMMUNITY SUPPORT.*—*To the maximum extent*
 20 *practicable, the Corporation shall require the applicant for*
 21 *a project that is subject to section 231A(b) to obtain broad*
 22 *community support for the project.”.*

1 **SEC. 8. CLIMATE CHANGE MITIGATION ACTION PLAN.**

2 *Title IV of chapter 2 of part I of the Foreign Assistance*
 3 *Act of 1961 (22 U.S.C. 2291 et seq.) is amended by insert-*
 4 *ing after section 234A the following new section:*

5 **“SEC. 234B. CLIMATE CHANGE MITIGATION.**

6 *“(a) MITIGATION ACTION PLAN.—The Corporation*
 7 *shall, not later than 180 days after the date of the enact-*
 8 *ment of the Overseas Private Investment Corporation Reau-*
 9 *thorization Act of 2007, institute a climate change mitiga-*
 10 *tion action plan that includes the following:*

11 *“(1) CLEAN AND EFFICIENT ENERGY TECH-*
 12 *NOLOGY.—*

13 *“(A) INCREASING ASSISTANCE.—The Cor-*
 14 *poration shall establish a goal of substantially*
 15 *increasing its support of projects that use, de-*
 16 *velop, or otherwise promote the use of clean en-*
 17 *ergy technologies over the 4-year period begin-*
 18 *ning on the date of the enactment of the Overseas*
 19 *Private Investment Corporation Reauthorization*
 20 *Act of 2007.*

21 *“(B) PREFERENTIAL TREATMENT TO*
 22 *PROJECTS.—The Corporation shall give pref-*
 23 *erential treatment to the evaluation and award-*
 24 *ing of assistance for and provide greater flexi-*
 25 *bility in supporting projects that use, develop, or*

1 *otherwise promote the use of clean and efficient*
2 *energy technologies.*

3 “(2) *ENVIRONMENTAL IMPACT ASSESSMENTS.*—

4 “(A) *GREENHOUSE GAS EMISSIONS.*—*The*
5 *Corporation shall, in making an environmental*
6 *impact assessment for a project under section*
7 *231A(b), take into account the degree to which*
8 *the project contributes to the emission of green-*
9 *house gases.*

10 “(B) *OTHER DUTIES NOT AFFECTED.*—*The*
11 *requirement under subparagraph (A) is in addi-*
12 *tion to any other requirement, obligation, or*
13 *duty that the Corporation has.*

14 “(3) *REPORT TO CONGRESSIONAL COMMIT-*
15 *TEES.*—*The Corporation shall, within 180 days after*
16 *the date of the enactment of the Overseas Private In-*
17 *vestment Corporation Reauthorization Act of 2007,*
18 *submit to the Committee on Foreign Affairs of the*
19 *House of Representatives and the Committee on For-*
20 *oreign Relations of the Senate a report on the plan de-*
21 *veloped to carry out paragraph (1)(A). Thereafter, the*
22 *Corporation shall include in its annual report under*
23 *section 240A a discussion of such plan and its imple-*
24 *mentation.*

25 “(b) *EXTRACTION INVESTMENTS.*—

1 “(1) *PRIOR NOTIFICATION TO CONGRESSIONAL*
2 *COMMITTEES.—The Corporation may not approve*
3 *any contract of insurance or reinsurance, or any*
4 *guaranty, or enter into any agreement to provide fi-*
5 *nancing for any project which significantly involves*
6 *an extractive industry and in which assistance by the*
7 *Corporation would be valued at \$10,000,000 or more*
8 *(including contingent liability), until at least 30 days*
9 *after the Corporation notifies the Committee on For-*
10 *ign Affairs of the House of Representatives and the*
11 *Committee on Foreign Relations of the Senate of such*
12 *contract or agreement.*

13 “(2) *COMMITMENT TO EITI PRINCIPLES.—The*
14 *Corporation may approve a contract of insurance or*
15 *reinsurance, or any guaranty, or enter into an agree-*
16 *ment to provide financing to an eligible investor for*
17 *a project that significantly involves an extractive in-*
18 *dustry only if—*

19 “(A) *the eligible investor has agreed to im-*
20 *plement the Extractive Industries Transparency*
21 *Initiative principles and criteria, or substan-*
22 *tially similar principles and criteria; or*

23 “(B) *the host country where the project is to*
24 *be carried out has committed to the Extractive*
25 *Industries Transparency Initiative principles*

1 *and criteria, or substantially similar principles*
 2 *and criteria.*

3 “(3) *PREFERENCE FOR CERTAIN PROJECTS.*—

4 *With respect to all projects that significantly involve*
 5 *an extractive industry, the Corporation, to the degree*
 6 *possible and consistent with its development objec-*
 7 *tives, shall give preference to a project in which both*
 8 *the eligible investor has agreed to implement the Ex-*
 9 *tractive Industries Transparency Initiative principles*
 10 *and criteria, or substantially similar principles and*
 11 *criteria, and the host country where the project is to*
 12 *be carried out has committed to the Extractive Indus-*
 13 *tries Transparency Initiative principles and criteria,*
 14 *or substantially similar principles and criteria.*

15 “(4) *DEFINITIONS.*—*In this subsection:*

16 “(A) *EXTRACTIVE INDUSTRY.*—*The term*
 17 *‘extractive industry’ refers to an enterprise en-*
 18 *gaged in the exploration, development, or extrac-*
 19 *tion of oil and gas reserves, metal ores,*
 20 *gemstones, industrial minerals, or coal.*

21 “(B) *EXTRACTIVE INDUSTRIES TRANS-*
 22 *PARENCY INITIATIVE PRINCIPLES AND CRI-*
 23 *TERIA.*—*The term ‘Extractive Industries Trans-*
 24 *parency Initiative principles and criteria’ means*
 25 *the principles and criteria of the Extractive In-*

dustries Transparency Initiative, as set forth in Annex A to the Anti-Corruption Policies and Strategies Handbook of the Corporation, as published in September 2006.

“(5) *REPORTING REQUIREMENT.*—The Corporation shall include in its annual report required under section 240A a description of its activities to carry out this subsection.

“(c) *DEFINITIONS.*—In this section:

“(1) *CLEAN AND EFFICIENT ENERGY TECHNOLOGY.*—The term ‘clean and efficient energy technology’ means an energy supply or end-use technology—

“(A) such as—

“(i) solar technology;

“(ii) wind technology;

“(iii) geothermal technology;

“(iv) hydroelectric technology; and

“(v) carbon capture technology; and

“(B) that, over its life cycle and compared to a similar technology already in commercial use—

“(i) is reliable, affordable, economically viable, socially acceptable, and compatible

1 *with the needs and norms of the country in-*
2 *volved;*

3 “(ii) results in—

4 “(I) reduced emissions of green-
5 house gases; or

6 “(II) increased geological seques-
7 tration; and

8 “(iii) may—

9 “(I) substantially lower emissions
10 of air pollutants; or

11 “(II) generate substantially small-
12 er and less hazardous quantities of
13 solid or liquid waste.

14 “(2) GREENHOUSE GAS.—The term ‘greenhouse
15 gas’ means—

16 “(A) carbon dioxide;

17 “(B) methane;

18 “(C) nitrous oxide;

19 “(D) hydrofluorocarbons;

20 “(E) perfluorocarbons; or

21 “(F) sulfur hexafluoride.”.

1 **SEC. 9. PROHIBITION ON ASSISTANCE TO DEVELOP OR**
 2 **PROMOTE CERTAIN RAILWAY CONNECTIONS**
 3 **AND RAILWAY-RELATED CONNECTIONS.**

4 *Section 237 of the of the Foreign Assistance Act of*
 5 *1961 (22 U.S.C. 2197) is further amended by adding at*
 6 *the end the following:*

7 “(q) **PROHIBITION ON ASSISTANCE FOR CERTAIN**
 8 **RAILWAY PROJECTS.**—*The Corporation may not provide*
 9 *insurance, reinsurance, a guaranty, financing, or other as-*
 10 *sistance to support the development or promotion of any*
 11 *railway connection or railway-related connection that does*
 12 *not traverse or connect with Armenia and does connect*
 13 *Azerbaijan and Turkey.”.*

14 **SEC. 10. INELIGIBILITY OF PERSONS DOING CERTAIN BUSI-**
 15 **NESS WITH STATE SPONSORS OF TERRORISM.**

16 (a) **IN GENERAL.**—*Section 237 of the Foreign Assist-*
 17 *ance Act of 1961 (22 U.S.C. 2197) is further amended by*
 18 *adding at the end the following:*

19 “(r) **INELIGIBLE PROJECTS.**—

20 “(1) **IN GENERAL.**—*A project will not be eligible*
 21 *to receive support provided by the Corporation under*
 22 *this title if either of the following applies:*

23 “(A)(i) *An applicant for insurance, reinsur-*
 24 *ance, financing, or other support for a project*
 25 *provided to the government of a state sponsor of*

1 terrorism a loan, or an extension of credit, that
2 remains outstanding.

3 “(ii) For purposes of this subparagraph, the
4 sale of goods, other than food or medicine, on
5 any terms other than a cash basis shall be con-
6 sidered to be an extension of credit.

7 “(B) An applicant for insurance, reinsur-
8 ance, financing, or other support for a project
9 has an investment commitment valued at
10 \$20,000,000 or more for the energy sector in a
11 country that is a state sponsor of terrorism.

12 “(2) DEFINITIONS.—In this subsection:

13 “(A) CASH BASIS.—The term ‘cash basis’
14 refers to a sale in which the purchaser of goods
15 or services is required to make payment in full
16 within 45 days after receiving the goods or serv-
17 ices.

18 “(B) ENERGY SECTOR.—The term ‘energy
19 sector’ refers to activities to develop or transport
20 petroleum or natural gas resources.

21 “(C) INVESTMENT COMMITMENT.—The term
22 ‘investment commitment’ means any of the fol-
23 lowing activities if such activity is undertaken
24 pursuant to a commitment, or pursuant to the
25 exercise of rights under a commitment, that was

1 *entered into with the government of a state spon-*
2 *sor of terrorism or a nongovernmental entity in*
3 *a country that is a state sponsor of terrorism:*

4 “(i) *The entry into a contract that in-*
5 *cludes responsibility for the development of*
6 *petroleum resources located in a country*
7 *that is a state sponsor of terrorism, or the*
8 *entry into a contract providing for the gen-*
9 *eral supervision and guarantee of another*
10 *person’s performance of such a contract.*

11 “(ii) *The purchase of a share of owner-*
12 *ship, including an equity interest, in that*
13 *development.*

14 “(iii) *The entry into a contract pro-*
15 *viding for the participation in royalties,*
16 *earnings, or profits in that development,*
17 *without regard to the form of the participa-*
18 *tion.*

19 “(D) *STATE SPONSOR OF TERRORISM.—The*
20 *term ‘state sponsor of terrorism’ means a coun-*
21 *try the government of which the Secretary of*
22 *State has determined, for purposes of section 6(j)*
23 *of the Export Administration Act of 1979, sec-*
24 *tion 620A of the Foreign Assistance Act of 1961,*
25 *section 40 of the Arms Export Control Act, or*

1 *any other provision of law, to be a government*
2 *that has repeatedly provided support for acts of*
3 *international terrorism.*

4 “(3) *CERTIFICATION.*—

5 “(A) *BY APPLICANTS.*—A person or entity
6 *applying for insurance, reinsurance, a guaranty,*
7 *financing, or other assistance under this title*
8 *may not receive such support unless its chief ex-*
9 *ecutive officer certifies to the Corporation, under*
10 *penalty of perjury, that the person or entity and*
11 *its majority-owned subsidiaries are not engaged*
12 *in any activity described in subparagraph (A) or*
13 *(B) of paragraph (1).*

14 “(B) *BY ULTIMATE PARENT ENTITIES.*—In
15 *the case of an applicant that is a majority-*
16 *owned entity of another entity, in addition to*
17 *the certification under subparagraph (A), the*
18 *chief executive officer of the ultimate parent enti-*
19 *ty of the applicant must certify, under penalty*
20 *of perjury, that it and its majority-owned sub-*
21 *sidaries are not engaged in any activity de-*
22 *scribed in subparagraph (A) or (B) of paragraph*
23 *(1).*

24 “(C) *APPLICATION TO STRAW MAN TRANS-*
25 *ACTIONS.*—In any case in which—

1 “(i) an applicant for insurance, rein-
2 surance, financing, or other assistance
3 under this title is providing goods and serv-
4 ices to a project,

5 “(ii) more than 50 percent of such
6 goods and services are acquired from an un-
7 affiliated entity, and

8 “(iii) the unaffiliated entity is receiv-
9 ing \$20,000,000 or more, or sums greater
10 than 50 percent of the amount of the assist-
11 ance provided by the Corporation for the
12 project (including contingent liability), for
13 such goods or services,

14 then the chief executive officer of the unaffiliated
15 entity must make a certification under subpara-
16 graph (A), and any ultimate parent entity must
17 make a certification required by subparagraph
18 (B).

19 “(D) *DILIGENT INQUIRY*.—A certification
20 required by subparagraph (A), (B), or (C) may
21 be made to the best knowledge and belief of the
22 certifying officer if that officer states that he or
23 she has made diligent inquiry into the matter
24 certified.

1 “(E) *EXCEPTION.*—(i) *A chief executive offi-*
2 *cer of an applicant or other entity may provide*
3 *a certification required by subparagraph (A),*
4 *(B), or (C) with respect to the activity of a ma-*
5 *jority-owned subsidiary or entity notwith-*
6 *standing activity by such majority-owned sub-*
7 *sidary or entity that would cause a project to*
8 *be ineligible for support under subparagraph (A)*
9 *or (B) of paragraph (1) if such activity is car-*
10 *ried out under a contract or other obligation of*
11 *such majority-owned subsidiary or entity that*
12 *was entered into or incurred before the acquisi-*
13 *tion of such majority-owned subsidiary or entity*
14 *by the applicant or ultimate parent entity.*

15 “(ii) *Clause (i) shall not apply if the terms*
16 *of such contract or other obligation are expanded*
17 *or extended after such acquisition.*

18 “(F) *DEFINITION.*—*For purposes of this*
19 *paragraph, a person is an ultimate parent of an*
20 *entity if the person owns directly, or through*
21 *majority ownership of other entities, greater than*
22 *50 percent of the equity of the entity.*

23 “(4) *EXCEPTION.*—*The prohibition in paragraph*
24 *(1) shall not—*

1 “(A) apply to a loan, extension of credit, or
2 investment commitment by an applicant, or
3 other entity covered by a certification under sub-
4 paragraph (A), (B), or (C) of paragraph (3), in
5 Southern Sudan, Southern Kordofan/Nuba
6 Mountains State, Blue Nile State, or Abyei,
7 Darfur, if the Corporation, with the concurrence
8 of the Secretary of State, determines that such
9 loan, extension of credit, or investment commit-
10 ment will provide emergency relief, promote eco-
11 nomic self-sufficiency, or implement a non-
12 military program in support of a viable peace
13 agreement in Sudan, including the Comprehen-
14 sive Peace Agreement for Sudan and the Darfur
15 Peace Agreement; or

16 “(B) prohibit the Corporation from pro-
17 viding support for projects in Southern Sudan,
18 Southern Kordofan/Nuba Mountains State, Blue
19 Nile State, and Abyei, Darfur, if the Corpora-
20 tion, with the concurrence of the Secretary of
21 State, determines that such projects will provide
22 emergency relief, promote economic self-suffi-
23 ciency, or implement a nonmilitary program in
24 support of a viable peace agreement in Sudan,

1 *including the Comprehensive Peace Agreement*
2 *for Sudan and the Darfur Peace Agreement.*

3 “(5) *PROSPECTIVE APPLICATION OF SUB-*
4 *SECTION.—This subsection shall not be applied to*
5 *limit support by the Corporation under this title be-*
6 *cause an applicant, or other entity covered by a cer-*
7 *tification under subparagraph (A), (B), or (C) of*
8 *paragraph (3) engaged in commercial activity specifi-*
9 *cally licensed by the Office of Foreign Assets Control*
10 *of the Department of the Treasury.”.*

11 *(b) TERMINATION.—*

12 *(1) IN GENERAL.—The amendment made by this*
13 *section shall cease to be effective with respect to a*
14 *country that is a state sponsor of terrorism 30 days*
15 *after the President certifies to the appropriate con-*
16 *gressional committees that—*

17 *(A) the country has ceased providing sup-*
18 *port for acts of international terrorism and no*
19 *longer satisfies the requirements for designation*
20 *as a state sponsor of terrorism;*

21 *(B) the country does not possess nuclear*
22 *weapons or a significant program to develop nu-*
23 *clear weapons; and*

24 *(C) the country is not committing genocide*
25 *or conducting a program of ethnic cleansing*

1 *against a civilian population that approaches*
 2 *genocide.*

3 (2) *DEFINITIONS.—In this subsection:*

4 (A) *APPROPRIATE CONGRESSIONAL COMMIT-*
 5 *TEES.—The term “appropriate congressional*
 6 *committees” means the Committee on Foreign*
 7 *Affairs of the House of Representatives and the*
 8 *Committee on Foreign Relations of the Senate.*

9 (B) *STATE SPONSOR OF TERRORISM.—The*
 10 *term “state sponsor of terrorism” has the mean-*
 11 *ing given that term in section 237(r)(2)(D) of*
 12 *the Foreign Assistance Act of 1961, as added by*
 13 *subsection (a) of this section.*

14 **SEC. 11. INCREASED TRANSPARENCY.**

15 (a) *IN GENERAL.—Section 237 of the Foreign Assist-*
 16 *ance Act of 1961 (22 U.S.C. 2197) is further amended by*
 17 *adding at the end the following new subsections:*

18 “(s) *AVAILABILITY OF PROJECT INFORMATION.—Be-*
 19 *ginning 90 days after the date of the enactment of the Over-*
 20 *seas Private Investment Corporation Reauthorization Act*
 21 *of 2007, the Corporation shall make public, and post on*
 22 *its Internet website, summaries of all new projects sup-*
 23 *ported by the Corporation, and other relevant information,*
 24 *except that the Corporation shall not include any confiden-*

1 *tial business information in the summaries and informa-*
 2 *tion made available under this subsection.*

3 “(t) *REVIEW OF METHODOLOGY.*—Not later than 180
 4 *days after the date of the enactment of the Overseas Private*
 5 *Investment Corporation Reauthorization Act of 2007, the*
 6 *Corporation shall publish in the Federal Register and peri-*
 7 *odically revise, subject to a period of public comment, the*
 8 *detailed methodology, including relevant regulations, used*
 9 *to assess and monitor the impact of projects supported by*
 10 *the Corporation on the development and environment of,*
 11 *and international worker rights in, host countries, and on*
 12 *United States employment.*

13 “(u) *PUBLIC NOTICE PRIOR TO PROJECT AP-*
 14 *PROVAL.*—

15 “(1) *PUBLIC NOTICE.*—The Board of Directors of
 16 *the Corporation may not vote in favor of any action*
 17 *proposed to be taken by the Corporation on any Cat-*
 18 *egory A project until at least 60 days after the Cor-*
 19 *poration—*

20 “(A) *makes available for public comment a*
 21 *summary of the project and relevant information*
 22 *about the project; and*

23 “(B) *makes the summary and information*
 24 *described in paragraph (1) available to locally*
 25 *affected groups in the area of impact of the pro-*

1 posed project, and to host country nongovern-
2 mental organizations.

3 *The Corporation shall not include any business con-*
4 *fidential information in the summary and informa-*
5 *tion made available under subparagraphs (A) and*
6 *(B).*

7 “(2) *PUBLISHED RESPONSE.*—*To the extent*
8 *practicable, the Corporation shall publish responses to*
9 *the comments received under paragraph (1) with re-*
10 *spect to a Category A project and submit the re-*
11 *sponses to the Board not later than 7 days before a*
12 *vote is to be taken on any action proposed by the Cor-*
13 *poration on the project.*

14 “(3) *DEFINITIONS.*—*In this subsection, the term*
15 *‘Category A project’ means any project or other activ-*
16 *ity for which the Corporation proposes to provide in-*
17 *surance, reinsurance, financing, or other support*
18 *under this title and which is likely to have significant*
19 *adverse environmental impacts.’.*

20 “(b) *OFFICE OF ACCOUNTABILITY.*—*Section 237 of the*
21 *Foreign Assistance Act of 1961 (22 U.S.C. 2197) is further*
22 *amended by adding at the end the following new subsection:*

23 “(v) *OFFICE OF ACCOUNTABILITY.*—*The Corporation*
24 *shall maintain an Office of Accountability to provide prob-*
25 *lem-solving services for projects supported by the Corpora-*

1 *tion and to review the Corporation’s compliance with its*
 2 *environmental, social, worker rights, human rights, and*
 3 *transparency policies and procedures, to the maximum ex-*
 4 *tent practicable. The Office of Accountability shall operate*
 5 *in a manner that is fair, objective and transparent.”.*

6 **SEC. 12. FRAUD AND OTHER BREACHES OF CONTRACT.**

7 *Section 237(n) of the Foreign Assistance Act of 1961*
 8 *(22 U.S.C. 2197(n)) is amended—*

9 *(1) by striking “Whoever” and inserting:*

10 *“(1) IN GENERAL.—Whoever”; and*

11 *(2) by adding at the end the following:*

12 *“(2) DEFERRALS TO DEPARTMENT OF JUSTICE.—(A) The President of the Corporation shall*
 13 *refer to the Department of Justice for appropriate ac-*
 14 *tion information known to the Corporation con-*
 15 *cerning any substantial evidence of—*

17 *“(i) a violation of this title;*

18 *“(ii) a material breach of contract entered*
 19 *into with the Corporation by an eligible investor;*
 20 *or*

21 *“(iii) a material false representation made*
 22 *by an investor to the Corporation.*

23 *“(B) Subparagraph (A) does not apply if the*
 24 *President of the Corporation concludes that the mat-*

1 *ter described in clause (i), (ii), or (iii), as the case*
 2 *may be, of subparagraph (A)—*

3 *“(i) is not evidence of a possible violation*
 4 *of criminal law; and*

5 *“(ii) is not evidence that the Federal Gov-*
 6 *ernment is entitled to civil remedy or to impose*
 7 *a civil penalty.”.*

8 **SEC. 13. TRANSPARENCY AND ACCOUNTABILITY OF INVEST-**
 9 **MENT FUNDS.**

10 *(a) IN GENERAL.—Section 239 of the Foreign Assist-*
 11 *ance Act of 1961 (22 U.S.C. 2199) is amended by adding*
 12 *at the end the following:*

13 *“(l) TRANSPARENCY AND ACCOUNTABILITY OF INVEST-*
 14 *MENT FUNDS.—*

15 *“(1) COMPETITIVE SELECTION OF INVESTMENT*
 16 *FUND MANAGEMENT.—With respect to any investment*
 17 *fund that the Corporation creates on or after the date*
 18 *of the enactment of the Overseas Private Investment*
 19 *Corporation Reauthorization Act of 2007, the Cor-*
 20 *poration may select persons to manage the fund only*
 21 *by contract using full and open competitive proce-*
 22 *dures.*

23 *“(2) CRITERIA FOR SELECTION.—In assessing*
 24 *proposals for investment fund management proposals,*

1 *the Corporation shall consider, in addition to other*
2 *factors, the following:*

3 “(A) *The prospective fund management’s ex-*
4 *perience, depth, and cohesiveness.*

5 “(B) *The prospective fund management’s*
6 *track record in investing risk capital in emerg-*
7 *ing markets.*

8 “(C) *The prospective fund management’s ex-*
9 *perience, management record, and monitoring*
10 *capabilities in its target countries, including de-*
11 *tails of local presence (directly or through local*
12 *alliances).*

13 “(D) *The prospective fund management’s*
14 *experience as a fiduciary in managing institu-*
15 *tional capital, meeting reporting requirements,*
16 *and administration.*

17 “(E) *The prospective fund management’s*
18 *record in avoiding investments in companies*
19 *that would be disqualified under section 237(r).*

20 “(3) *ANNUAL REPORT.—The Corporation shall*
21 *include in each annual report under section 240A an*
22 *analysis of the investment fund portfolio of the Cor-*
23 *poration, including the following:*

24 “(A) *FUND PERFORMANCE.—An analysis of*
25 *the aggregate financial performance of the in-*

1 *vestment fund portfolio grouped by region and*
 2 *maturity.*

3 “(B) *STATUS OF LOAN GUARANTIES.*—*The*
 4 *amount of guaranties committed by the Corpora-*
 5 *tion to support investment funds, including the*
 6 *percentage of such amount that has been dis-*
 7 *bursed to the investment funds.*

8 “(C) *RISK RATINGS.*—*The definition of risk*
 9 *ratings, and the current aggregate risk ratings*
 10 *for the investment fund portfolio, including the*
 11 *number of investment funds in each of the Cor-*
 12 *poration’s rating categories.*

13 “(D) *COMPETITIVE SELECTION OF INVEST-*
 14 *MENT FUND MANAGEMENT.*—*The number of pro-*
 15 *posals received and evaluated for each newly es-*
 16 *tablished investment fund.”.*

17 (b) *GAO AUDIT.*—*Not later than 1 year after the sub-*
 18 *mission of the first report to Congress under section 240A*
 19 *of the Foreign Assistance Act of 1961 that includes the in-*
 20 *formation required by section 239(l)(3) of that Act (as*
 21 *added by subsection (a) of this section), the Comptroller*
 22 *General of the United States shall prepare and submit to*
 23 *the Committee on Foreign Affairs of the House of Represent-*
 24 *atives and the Committee on Foreign Relations of the Sen-*
 25 *ate an independent assessment of the investment fund port-*

1 *folio of the Overseas Private Investment Corporation, cov-*
 2 *ering the items required to be addressed under such section*
 3 *239(l)(3).*

4 **SEC. 14. EXTENSION OF AUTHORITY TO OPERATE IN IRAQ.**

5 *Section 239 of the Foreign Assistance Act of 1961 (22*
 6 *U.S.C. 2199) is amended by adding at the end the following:*

7 *“(m) OPERATIONS IN IRAQ.—Notwithstanding sub-*
 8 *sections (a) and (b) of section 237, the Corporation is au-*
 9 *thorized to undertake in Iraq any program authorized by*
 10 *this title.”.*

11 **SEC. 15. CONSISTENCY WITH EXISTING LAW.**

12 *Section 239 of the Foreign Assistance Act of 1961 (22*
 13 *U.S.C. 2199) is further amended by adding at the end the*
 14 *following:*

15 *“(n) CONSISTENCY WITH OTHER LAW.—Section 620L*
 16 *of this Act shall apply to any insurance, reinsurance, guar-*
 17 *anty, or other financing issued by the Corporation for*
 18 *projects in the West Bank and Gaza to the same extent as*
 19 *such section applies to other assistance under this Act.*

20 *“(o) LIMITATION ON ASSISTANCE TO GAZA AND THE*
 21 *WEST BANK.—The Corporation may not provide insur-*
 22 *ance, reinsurance, a guaranty, financing, or other assist-*
 23 *ance to support a project in any part of Gaza or the West*
 24 *Bank unless the Secretary of State determines that the loca-*
 25 *tion for the project is not under the effective control of*

1 *Hamas or any other foreign terrorist organization des-*
 2 *ignated under section 219 of the Immigration and Nation-*
 3 *ality Act (8 U.S.C. 1189).”.*

4 **SEC. 16. CONGRESSIONAL NOTIFICATION REGARDING MAX-**
 5 **IMUM CONTINGENT LIABILITY.**

6 *Section 239 of the Foreign Assistance Act of 1961 (22*
 7 *U.S.C. 2199) is further amended by adding at the end the*
 8 *following:*

9 “(p) **CONGRESSIONAL NOTIFICATION OF INCREASE IN**
 10 **MAXIMUM CONTINGENT LIABILITY.**—*The Corporation shall*
 11 *notify the Committee on Foreign Affairs of the House of*
 12 *Representatives and the Committee on Foreign Relations of*
 13 *the Senate not later than 15 days after the date on which*
 14 *the Corporation’s maximum contingent liability out-*
 15 *standing at any one time pursuant to insurance issued*
 16 *under section 234(a), and the amount of financing issued*
 17 *under sections 234(b) and (c), exceeds the previous fiscal*
 18 *year’s maximum contingent liability by 25 percent.”.*

19 **SEC. 17. ASSISTANCE FOR SMALL BUSINESSES AND ENTI-**
 20 **TIES.**

21 *Section 240 of the Foreign Assistance Act of 1961 (22*
 22 *U.S.C. 2200) is amended by adding at the end the following:*

23 “(c) **RESOURCES DEDICATED TO SMALL BUSINESSES,**
 24 **COOPERATIVES, AND OTHER SMALL UNITED STATES IN-**
 25 **VESTORS.**—*The Corporation shall ensure that adequate per-*

1 *sonnel and resources, including senior officers, are dedi-*
 2 *cated to assist United States small businesses, cooperatives,*
 3 *and other small United States investors in obtaining insur-*
 4 *ance, reinsurance, financing, and other support under this*
 5 *title. The Corporation shall include, in each annual report*
 6 *under section 240A, the following information with respect*
 7 *to the period covered by the report:*

8 “(1) *A description of such personnel and re-*
 9 *sources.*”

10 “(2) *The number of small businesses, coopera-*
 11 *tives, and other small United States investors that re-*
 12 *ceived such insurance, reinsurance, financing, and*
 13 *other support, and the dollar value of such insurance,*
 14 *reinsurance, financing and other support.*”

15 “(3) *A description of the projects for which such*
 16 *insurance, reinsurance, financing, and other support*
 17 *was provided.”.*

18 **SEC. 18. TECHNICAL CORRECTIONS.**

19 (a) *PILOT EQUITY FINANCE PROGRAM.*—Section 234
 20 *of the Foreign Assistance Act of 1961 (22 U.S.C. 2194) is*
 21 *amended—*

22 (1) *by striking subsection (g); and*

23 (2) *by redesignating subsection (h) as subsection*
 24 *(g).*

1 (b) *TRANSFER AUTHORITY.*—Section 235 of the For-
 2 eign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

3 (1) *by striking subsection (e); and*

4 (2) *by redesignating subsection (f) as subsection*
 5 *(e).*

6 (c) *GUARANTY CONTRACT.*—Section 237(j) of the For-
 7 eign Assistance Act of 1961 (22 U.S.C. 2197(j)) is amended
 8 by inserting “insurance, reinsurance, and” after “Each”.

9 (d) *TRANSFER OF PREDECESSOR PROGRAMS AND AU-*
 10 *THORITIES.*—

11 (1) *TRANSFER.*—Section 239 of the Foreign As-
 12 sistance Act of 1961 (22 U.S.C. 2199), as amended by
 13 the preceding provisions of this Act, is amended—

14 (A) *by striking subsection (b); and*

15 (B) *by redesignating the subsections (c)*
 16 *through (p) as subsections (b) through (o), re-*
 17 *spectively.*

18 (2) *CONFORMING AMENDMENTS.*—(A) Section
 19 237(m)(1) of the Foreign Assistance Act of 1961 (22
 20 U.S.C. 2197(m)(1)) is amended by striking “239(g)”
 21 and inserting “239(f)”.

22 (B) Section 240A(a) of the Foreign Assistance
 23 Act of 1961 (22 U.S.C. 2200A(a)) is amended—

24 (i) *in paragraph (1), by striking “239(h)”*
 25 *and inserting “239(g)”;* and

1 (ii) in paragraph (2)(A), by striking
2 “239(i)” and inserting “239(h)”.

3 (C) Section 209(e)(16) of the Admiral James W.
4 Nance and Meg Donovan Foreign Relations Author-
5 ization Act, Fiscal Years 2000 and 2001 (as enacted
6 into law by section 1000(a)(7) of Public Law 106–
7 113; 31 U.S.C. 1113 note) is amended by striking
8 “239(c)” and “2199(c)” and inserting “239(b)” and
9 “2199(b)”, respectively.

10 (e) *ADDITIONAL CLERICAL AMENDMENTS.*—Section
11 234(b) of the Foreign Assistance Act of 1961 (22 U.S.C.
12 2194(b)) is amended by striking “235(a)(2)” and inserting
13 “235(a)(1)”.

14 **SEC. 19. EFFECTIVE DATE.**

15 (a) *NEW APPLICATIONS.*—This Act and the amend-
16 ments made by this Act shall apply with respect to any
17 application for insurance, reinsurance, a guaranty, financ-
18 ing, or other support under title IV of chapter 2 of part
19 I of the Foreign Assistance Act of 1961 if the application
20 is received by the Overseas Private Investment Corporation
21 on or after July 1, 2007, and the application is approved
22 by the Corporation on or after the date of the enactment
23 of this Act.

24 (b) *EXTENSIONS AND RENEWALS.*—

1 (1) *IN GENERAL.*—Subject to paragraph (2), this
2 Act and the amendments made by this Act shall
3 apply with respect to any extension or renewal of a
4 contract or agreement for any such insurance, rein-
5 surance, guaranty, financing, or support that was en-
6 tered into by the Corporation before the date of the
7 enactment of this Act if the extension or renewal is
8 approved by the Corporation on or after such date of
9 enactment.

10 (2) *EXCEPTION.*—This Act and the amendments
11 made by this Act shall not apply to any extension or
12 renewal which is substantially identical to an exten-
13 sion or renewal formally requested in a detailed writ-
14 ing filed with the Corporation before July 1, 2007.

Union Calendar No. 151

110TH CONGRESS
1ST Session

H. R. 2798

[Report No. 110-241]

A BILL

To reauthorize the programs of the Overseas Private Investment Corporation, and for other purposes.

JULY 19, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed